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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 **KEITH E. HOPKINS,**

Petitioner,

15 **v.**

16 **SUSAN L. HUBBARD, Warden,**

Respondent.

C 07-5624 JF (PR)

**ANSWER TO ORDER TO SHOW  
CAUSE**

19 Respondent hereby provides this answer to the Order to Show Cause why the petition for  
20 writ of habeas corpus should not be granted.

21 **I.**  
22 **CUSTODY**

23 Petitioner is lawfully in the custody of the Warden of California Medical Facility  
24 Vacaville, as a result of a plea of no contest to two counts of committing a lewd or lascivious act  
25 upon a child under the age of fourteen. On August 14, 2006, the trial court sentenced petitioner to  
26 five years in prison.

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**II.**

**GENERAL AND SPECIFIC DENIALS**

Respondent denies that the state court's ruling was based on an unreasonable determination of fact or was contrary to or involved an unreasonable application of clearly established United States Supreme Court law. Respondent specifically denies that petitioner was denied due process under the Fourteenth Amendment of the United States Constitution when the trial did not conduct a competency hearing after receipt of the probation officer's report and prior to sentencing.

**III.**

**PROCEDURAL ISSUES**

The claim raised in the petition is exhausted. The petition is timely within the meaning of 28 U.S.C. § 2244(d).

**IV.**

**LODGED DOCUMENTS**

Respondent has lodged concurrently with this answer the following exhibits: (1) Clerk's Transcript (2 volumes); (2) Reporter's Transcript (8 volumes); (3) Appellant's Opening Brief; (4) Respondent's Brief; (5) Appellant's Reply Brief; (6) Petition for Review, including Exhibit A, Opinion by California Court of Appeal; (7) California Supreme Court Order denying review.

**V.**

**INCORPORATION BY REFERENCE**

Respondent hereby incorporates by reference the accompanying memorandum of points and authorities in support of this answer.

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**VI.**

**CONCLUSION**

Respondent respectfully requests that the petition for writ of habeas corpus be denied.

Dated: April 18, 2008

Respectfully submitted,

EDMUND G. BROWN JR.  
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/s/ SARA TURNER  
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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Hopkins v. Hubbard**

No.: **C 07-5624 JF (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 18, 2008, I served the attached **ANSWER TO ORDER TO SHOW CAUSE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER; NOTICE OF LODGED DOCUMENTS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Keith E. Hopkins  
No. F-38525  
California Medical Facility  
P. O. Box 2000  
Vacaville, CA 95696

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 18, 2008, at San Francisco, California.

Nelly Guerrero  
Declarant

/s/ Nelly Guerrero  
Signature